number of dairy farmers who supply the New Mexico-West Texas market. The cooperative stated that marketing conditions have not changed since the provisions were suspended in 1993, and therefore should be continued until restructuring of the order can be achieved through the formal rulemaking process.

The cooperative states that the continuation of the current suspension is necessary to insure that dairy farmers who have historically supplied the New Mexico-West Texas market will continue to have their milk priced under this order. In addition, they maintain that the suspension would continue to provide handlers the flexibility needed to move milk supplies in the most efficient manner and to eliminate costly and inefficient movements of milk that would be made solely for the purpose of pooling the milk of dairy farmers who have historically supplied the market.

Accordingly, it may be appropriate to suspend the aforesaid provisions from October 1, 1995, through September 30, 1997.

List of Subjects in 7 CFR Part 1138

Milk marketing orders.

The authority citation for 7 CFR Part 1138 continues to read as follows:

Authority: 7 U.S.C. 601–674.

Dated: July 14, 1995.

Lon Hatamiya,

Administrator, Agricultural Marketing Service.

[FR Doc. 95–17861 Filed 7–19–95; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2, 50, and 51

RIN 3150–AE96

Decommissioning of Nuclear Power Reactors

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is proposing to amend its regulations on the decommissioning procedures that lead to the termination of an operating license for nuclear power reactors and release of the property. The proposed amendments would clarify ambiguities in the current rule and codify practices which have been used for other licensees on a case-by-case basis. Some proposed amendments have also been made for purposes of clarification and procedural simplification for non-power reactors.

DATES: The comment period expires October 18, 1995. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Submit comments to: The Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC.

For information on submitting comments electronically, see **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Dr. Carl Feldman, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301)-415–6194, Anthony W. Markley, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301)-415–1169, or Bradley W. Jones, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–1628.

SUPPLEMENTARY INFORMATION:

Electronic Access

Comments may be submitted electronically, in either ASCII text or Word Perfect format (version 5.1 or later), by calling the NRC Electronic Bulletin Board on FedWorld. The bulletin board may be accessed using a personal computer, a modem, and one of the commonly available communication software packages, or directly via Internet. Background documents on the rulemaking are also available for downloading and viewing on the bulletin board.

If using a personal computer and modem, the NRC subsystem on FedWorld can be accessed directly by dialing the toll free number: 1–800–303–9672. Communication software parameters should be set as follows: parity to none, data bits to 8, and stop bits to 1 (N,8,1). Use ANSI or VT–100 terminal emulation. The NRC rulemaking subsystems can then be accessed by selecting the ''Rules Menu'' option from the ''NRC Main Menu.'' For further information about options available for NRC at FedWorld, consult the ''Help/Information Center'' from the ''NRC Main Menu.'' Users will find the ''FedWorld Online User's Guides'' particularly helpful. Many NRC subsystems and databases also have a ''Help/Information Center'' option that is tailored to the particular subsystem.

The NRC subsystem on FedWorld can also be accessed by a direct dial phone number for the main FedWorld BBS: 703–321–3339; Telnet via Internet: fedworld.gov (192.239.92.3); File Transfer Protocol (FTP) via Internet: ftp.fedworld.gov (192.239.92.205); and World Wide Web using the ''Home Page'': www.fedworld.gov (this is the Uniform Resource Locator (URL)).

If using a method other than the NRC's toll free number to contact FedWorld, then the NRC subsystem will be accessed from the main FedWorld menu by selecting ''F—Regulatory, Government Administration and State Systems'' or by entering the command ''/go nrc'' at a FedWorld command line. At the next menu select ''A—Regulatory Information Mall,'' and then select ''A—U.S. Nuclear Regulatory Commission'' at the next menu. If you access NRC from FedWorld's ''Regulatory, Government Administration'' menu, then you may return to FedWorld by selecting the ''Return to FedWorld'' option from the ''NRC Main Menu.'' However, if you access NRC at FedWorld by using NRC's toll-free number, then you will have full access to all NRC systems, but you will not have access to the main FedWorld system. For more information on NRC bulletin boards call Mr. Arthur Davis, Systems Integration and Development Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–5780; e-mail AXD3@nrc.gov.

I. Background

When the decommissioning regulations were published and adopted on June 27, 1988 (53 FR 24018), it was assumed that the majority of nuclear power reactor licensees would decommission at the end of the operating license. Since that time a number of licensees have shut down prematurely without previously having submitted a decommissioning plan. In addition, these licensees have requested exemptions from certain operating requirements because, without fuel present in the reactor, they are no longer needed. Each of these cases has been handled individually without clearly defined generic requirements.

The Commission is proposing to amend the decommissioning regulations in 10 CFR Parts 2, 50, and 51 to clarify ambiguities in the current regulations and to codify procedures and terminology that have been used in a number of specific cases. The Commission believes that the proposed amendments would enhance efficiency and uniformity in the decommissioning process for nuclear power reactors. The proposed amendments would allow for greater public participation in the decommissioning process and furnish the licensed community and the public a better understanding of the process as the operating personnel at a nuclear power reactor facility undergo the transition from an operating organization to a decommissioning organization. This rulemaking would address the process which begins with a licensee's decision to permanently cease operations at the facility and concludes with the Commission's approval of license termination. These rule revisions would reduce regulatory burden while providing greater flexibility for implementing decommissioning activities. This would result in resource savings through a more efficient and uniform regulatory process.

The conceptual approach the Commission has chosen divides power reactor decommissioning activities into phases I, II, and III. Phase I commences with the effective date of permanent cessation of operations and deals with those licensee activities that the licensee undertakes before placing the power reactor in a storage mode. Phase II deals with licensee activities during the storage period, and Phase III deals with the activities the licensee undertakes to terminate the license. The implementation of this approach comprises the following aspects. During Phase I, certifications would be provided to the NRC that the licensee has permanently ceased operations and permanently removed all fuel from the reactor vessel. At this time, the licensee would be prohibited by regulation from operating the reactor. The proposed rule would also make changes to Part 50 requirements to reflect the non-operating status of the facility during the decommissioning process. The licensing fee would also be substantially reduced because the license would not meet the definition of an ''operating license'' as defined in 10 CFR 171.5. Based on these proposed regulatory changes a power reactor licensee would no longer need to obtain a possession only license amendment (POLA) to obtain regulatory relief when permanently shut down, as currently must be done. However, for non-power reactor licensees, a POLA would still be issued.

Although no major decommissioning activities, as defined in 10 CFR 50.2, would be allowed initially, limited licensee decommissioning trust funds would be made available for planning purposes and early activities. The remaining decommissioning funds would be made available after submittal to the NRC of the licensee's detailed decommissioning cost estimate. Before undertaking major decommissioning activities, the licensee would be required to provide the NRC with a post-shutdown decommissioning activities report (PSDAR) that provides a schedule of planned decommissioning activities, an estimate of the decommissioning costs expected to be incurred, and a discussion of environmental impacts of decommissioning. The NRC, within a 90 day period, would inform the public of the licensee's intent to decommission, make the PSDAR available for public comment, and hold a public meeting in the vicinity of the site to describe the planned activities and hear additional public comments. The public meeting will normally be held at least 30 days before the 90 day period of time ends. This process will allow closer NRC oversight and better public knowledge of these activities.

After this 90 day period of time, the licensee could begin major decommissioning (i.e., dismantlement) activities as allowed under the current 10 CFR 50.59, unless the NRC interposes an objection. Additional criteria would be added to § 50.59 specifically pertinent to decommissioning activities. Further, should the licensee make any significant changes to the PSDAR activities and schedules, which NRC anticipates may occur as a result of such factors as utilization of new decommissioning technology or access to low-level waste facilities, the licensee would be required to give NRC prior notice before implementing those changes.

After an optional period of storage (Phase II), Phase III would be initiated when the licensee's application to terminate the license and license termination plan were received by the NRC. At this time, a supplemental environmental report would also be required if there were the possibility of significant environmental impacts not previously covered in other environmental impact statements. The Commission would notice receipt of this information and provide opportunity for a hearing, under Subpart L of 10 CFR 2.1201, on the license termination plan.[1] The Commission would also hold a public meeting in the vicinity of the site, in a similar manner to the one held for the PSDAR. Once the licensee had completed implementation of the termination plan and the Commission had verified that the licensee had satisfactorily implemented the termination plan then, as in the existing rule, the Commission would terminate the license. Any Subpart L hearing for the license termination plan amendment must be completed prior to license termination.

Three aspects of these proposed regulatory changes that can affect both power and non-power reactor facilities are addressed in the proposed rule for purposes of clarification. The first provides that environmental requirements for conditional release situations be explicitly considered (10 CFR 51), based on the proposed decommissioning residual radioactivity criteria rule (59 FR 43200 August 22, 1994). The second clarifies that a license that has expired is not terminated until the Commission terminates it and further clarifies what conditions prevail under such circumstances. The third clarifies that existing technical specifications for reactors that are not authorized to operate will remain effective until removed or modified by license amendment.

Additionally, an aspect of these proposed regulatory changes that affects non-power reactor facilities is addressed in the proposed rule for purposes of procedural simplification. The requirement in the current rule that preliminary decommissioning plans be submitted five years prior to permanent shutdown or license expiration has been changed to 2 years to take more realistic account of the planning time periods necessary for non-power reactor facilities.

Finally, also for purposes of procedural simplification, an aspect of these proposed regulatory changes that affects both power and non-power reactor facilities is that the approved decommissioning plan for the non-power reactor facilities or the approved license termination plan for the power reactor facilities be made part of the FSAR. This affords the licensee flexibility in making certain changes to these plans without a formalized

[1] The Subpart L process will be used and the 10 CFR 50 license will be terminated only if spent fuel has been removed from the 10 CFR Part 50 licensed site to another authorized facility. If spent fuel remains on the Part 50 site at the time of license termination plan submittal, the Subpart G process will be used.

amendment process which would otherwise be necessary.

On August 22, 1994 (59 FR 43200), the NRC published a proposed rule on radiological criteria for decommissioning for comment. Section 20.1406(b) of the proposed rule would require that a Site Specific Advisory Board (SSAB) be convened in cases where a licensee proposes to request restricted release of the site. On December 6–8, 1994, a workshop on this issue was held in Washington, DC. The objective of the workshop was to conduct a discussion among affected interests on the implementation of the SSAB requirement. The current rule is not primarily intended to address the comments on the radiological criteria rule for decommissioning. However, the staff was cognizant of the comments made in that workshop and the language contained in this proposed rule does address the concern for early public information and participation raised in that forum. The staff will more directly address the workshop comments in the development of the final rule on the radiological criteria for decommissioning. If finalization of the radiological criteria rule requires any modifications to the current proposed rule, those modifications will be made as part of the radiological criteria rule development process.

II. Existing Regulatory Framework and Need for the Amendments

The Commission has examined the present regulatory framework for decommissioning, largely contained within 10 CFR 50.82, with additional requirements in 10 CFR 50.75, 51.53, and 51.95, as well as the 10 CFR 50 technical requirements, to ascertain the appropriate regulatory path to take that would ameliorate current licensing concerns without compromising health and safety.

The current rule requires a licensee to submit a preliminary decommissioning plan 5 years before permanent cessation of operations, with a site-specific cost estimate, and an adjustment of financial assurance funds. A detailed decommissioning plan must be submitted to the NRC within 2 years after permanent cessation of operations. At that time, a supplemental environmental report must also be submitted to the NRC describing any substantive environmental impacts that are anticipated but not already covered in other environmental impacts documents. The detailed decommissioning plan contains an updated site-specific cost estimate with decommissioning funds adjusted in an external trust to make up for any shortfall. Currently, prior to approval of the decommissioning plan by the Commission, no decommissioning trust funds can be used (although case-specific exceptions have been made). Finally, aside from the licensee voluntarily informing the public about decommissioning activities, very limited public input or participation is formally required in the current rules. However, public meetings and informal hearings have been held for plants undergoing decommissioning for case-specific situations.

The proposed rule would preserve the substantive elements of the current regulations, provide for greater public participation in the decommissioning process, and allow the licensee to perform decommissioning activities provided certain constraints are met. The proposed rule would make the decommissioning process more responsive to current licensing needs and improve the process in the areas of understandability, efficiency, and uniformity.

During the Phase I process, proposed § 50.82(a) provides that, within 2 years of permanently ceasing operations, a post-shutdown decommissioning activities report (PSDAR) must be submitted to the NRC. The PSDAR would include a description of the licensee's planned decommissioning activities and a schedule for their accomplishment, an estimate of expected costs, and a discussion addressing whether or not the environmental impacts associated with site-specific decommissioning activities will be bounded by existing environmental impact statements. Upon receipt of the PSDAR, the NRC will announce in the **Federal Register** receipt of the report, make the PSDAR available for public comment, and announce the location and time of a public meeting to be held in the vicinity of the reactor facility site to discuss the licensee's plans.[2] Section 50.82(a) further states that after the NRC receives certification of permanent removal of the fuel from the reactor vessel and 90 days after the NRC receives the PSDAR, the licensee may begin to perform major decommissioning activities if the activities meet the requirements in § 50.59. This would generally occur 30 days after the public meeting.

The provisions of § 50.59 presently allow the licensee to make changes to the facility during operation without express NRC approval if these changes meet the conditions listed in § 50.59, and the licensee prepares and maintains a written safety evaluation that provides the basis for their determination that the planned changes meet the criteria specified in the regulation. The NRC inspects these evaluations periodically to ensure that the licensee is complying with the regulation. To ensure that licensees adequately address the unique circumstances associated with decommissioning activities, the Commission is proposing to include additional criteria for the use of § 50.59 during decommissioning. The criteria would apply to both power and non-power reactors, although non-power reactor licensees could not perform major decommissioning activities until they had an approved decommissioning plan—as in the current rule. The Commission proposes that in using the § 50.59 process for post-shutdown activities the licensee must meet the following criteria which provide that the proposed activities must not: (1) Foreclose release of the site for possible unrestricted use, (2) significantly increase decommissioning costs, (3) cause any significant environmental impact not previously reviewed, or (4) violate the terms of the licensee's existing license. To undertake any activity that would not meet these criteria, the licensee must submit a license amendment request, as is currently the requirement under § 50.59(c).

The Commission proposes to codify the position embodied in the draft policy statement ''Use of Decommissioning Trust Funds Before Decommissioning Plan Approval'' (59 FR 5216; February 3, 1994) that the licensee should be allowed to use decommissioning trust funds subject to certain criteria. The criteria presented in the draft policy statement have been modified in the proposed rule in response to public comments. The Commission recognizes the need for the licensee to provide adequate financial assurance to complete decommissioning at any time during operation, up to and including the termination of license, and is proposing criteria, along with criteria that specify when and how much of these trust funds can be used, to ensure that licensees maintain adequate funds to complete decommissioning. In accordance with the current rule, the Commission proposes to retain, under § 50.75(f), the requirement for site-specific cost estimates 5 years before and within 2 years after the licensee's declaration of permanent cessation of operations. (For non-power reactors, the Commission

[2] There is nothing that prevents a licensee from developing and submitting the PSDAR and the NRC from holding the public meeting prior to the permanent cessation of operations.

proposes to require, under § 50.75(f), that a preliminary decommissioning plan be submitted 2 years rather than the current 5 years before permanent cessation of operations because this is a more realistic timing requirement for non-power reactors.) Once the NRC has received the licensee's certification of permanent cessation of operations, decommissioning trust funds could be used by the licensee. However, the withdrawal of funds would be subject to the following criteria: (1) The withdrawals are for expenses for legitimate decommissioning activities consistent with the definition of decommissioning in § 50.2; (2) The expenditure would not reduce the value of the decommissioning trust below an amount necessary to place and maintain the licensee's reactor in a safe storage condition if unforeseen conditions or expenses arise and; (3) The withdrawals would not inhibit the ability of the licensee to complete funding of any shortfalls in the decommissioning trust needed to ensure the availability of funds to ultimately release the site and terminate the license.

The proposed rule would permit, under § 50.82(a)(7), that 3 percent of the generic decommissioning cost amount, specified in § 50.75, could be used by the licensee initially for decommissioning planning. Following the 90-day waiting period after the NRC has received the licensee's PSDAR and upon certification of permanent removal of fuel from the reactor vessel, an additional 20 percent could be used to commence major decommissioning activities. Finally, the proposed rule would require a site-specific cost analysis to be submitted to the NRC prior to the licensee being permitted to use any funding in excess of 23 percent of the generic cost estimate, and, in any case, within 2 years of permanent cessation of operations.

After an optional period of storage (Phase II of the decommissioning process), § 50.82(a)(8) of the proposed rule would require the licensee to complete decommissioning by submitting an application to terminate the license along with a license termination plan. This would initiate Phase III of the decommissioning process. This process is similar to the requirements in the current rule for a power reactor licensee that has permanently ceased operations and decides to go into a storage mode. The current rule allows a less detailed decommissioning plan initially, with the more detailed plan nearer to the completion of decommissioning because more accurate planning can be accomplished. The termination plan would contain similar elements for consideration as the current rule requires. In particular, the proposed rule would require that the termination plan contain a site characterization, a description of remaining dismantlement activities (if any), plans for site remediation, detailed plans for the final radiation survey, a description of the end use of the site (if restricted), an updated site-specific analysis of remaining decommissioning costs, and a supplement to the environmental report, as required by § 51.53, that describes any new information or significant environmental change associated with the licensee's proposed decommissioning activities.

The NRC would notice receipt of the license termination plan as a license amendment, conduct a public meeting in the vicinity of the site, and provide opportunity for a 10 CFR part 2, subpart L, hearing, as specified in § 2.1201(a)(3), if the spent fuel had been removed from the 10 CFR part 50 licensed site and transferred to an authorized facility. Otherwise, there would be opportunity for a 10 CFR part 2, subpart G, hearing, as provided for in the current rules. The license could not be terminated if fuel were located on the site covered by the 10 CFR part 50 license. The Subpart L hearing is appropriate for the nature of a permanently shutdown facility where the spent fuel has been removed from the 10 CFR part 50 site and transferred to an authorized facility, since the defueled site is analogous to materials licensees that typically use Subpart L hearings for license amendments. Appropriate conforming amendments have been proposed for 10 CFR 2.1205 and 50.91 to reflect the application of subpart L hearings to 10 CFR part 50 license amendments following removal of the fuel from the 10 CFR part 50 licensed site and transfer to an authorized facility. Section 50.82(a)(9) would specify that the Commission would approve the termination plan and the plan would become part of the FSAR. (Similarly, for non-power reactors, the decommissioning plan would become part of the FSAR or equivalent.) As in the current rule, the licensee would then execute the plan and, after this was accomplished and verified by the NRC, the Commission would terminate the license.

In order to clear up various ambiguities in the current rule regarding power reactors, definitions of permanent cessation of operations, permanent removal of fuel from the reactor vessel, major decommissioning activity, major radioactive components and certified fuel handler, would be codified in § 50.2. Because a licensee could choose to undertake major decommissioning activities at the reactor facility 90-days after the NRC receives the PSDAR, it is important to define what ''major decommissioning activity'' means. The definition chosen is, for a nuclear power reactor, any activity that results in permanent removal of major radioactive components, permanently modifies the structure of the containment, or results in dismantling components for shipment containing greater than class C waste. Accordingly, ''major radioactive components'' would be defined for a nuclear power reactor to comprise the reactor vessel and internals, steam generators, pressurizers, large bore reactor coolant system piping, and other large components that are radioactive.

Written communication requirements for licensee permanent cessation of operations and permanent removal of fuel from the reactor vessel would be specified in §§ 50.4(b) (8) and (9). The licensee would be required to state the date on which operations will cease, or have ceased, in its certification of permanent cessation of operations. The licensee, in its certification regarding permanent removal of fuel from the reactor vessel, would state the date on which the fuel assemblies were removed and their disposition.

Because of previous case-specific requests the NRC has received from licenses for exemptions from operating requirements in recognition of the permanent shutdown of the facility and permanent removal of fuel from the reactor vessel, the Commission has undertaken an analysis to determine the appropriateness of applying certain 10 CFR part 50 requirements during the post-shutdown period of the facility. The results of a portion of that study are presented in Section III of this rule.

This proposed rulemaking primarily addresses power reactor facilities because, unlike non-power reactor facilities, a delay of up to 60 years between the time of permanent cessation of operations and license termination can occur. Such a situation, especially under circumstances of premature closure, requires special regulatory consideration to deal with licensee decommissioning activities in a timely, efficient, and uniform manner. However, there are three aspects of these proposed regulatory changes that can affect both power and non-power reactor facilities. These aspects are addressed in the proposed rule for purposes of clarification. The proposed rule includes requirements for conditional release situations, as discussed in the proposed decommissioning residual radioactivity

criteria rule (59 FR 43200; August, 22, 1994). Proposed § 51.53(b) (and correspondingly, under proposed § 51.95 for NRC staff requirements) states that environmental considerations of the decommissioning activities must be explicitly considered during the licensee's request for decommissioning plan or license termination plan approval. Proposed § 50.51(b) states that a license that has expired is not terminated until the Commission notifies the licensee in writing that the license is terminated. The proposed requirement further states that during any period of continued effectiveness beyond the licensee's stated expiration date, the licensee: (1) Is prohibited from operating the production or utilization facility; (2) Must limit activities to actions necessary to decommission and decontaminate the facility, or actions necessary to maintain the facility, including the storage, control and maintenance of the spent fuel in a safe condition and; (3) Must conduct activities in accordance with all other restrictions applicable to the facility in NRC regulations and provisions of the specific part 50 license for the facility. This provision is consistent with NRC requirements for other licensees and avoids any gaps in the licensing of regulated facilities. This same rationale applies to both power and non-power reactors. Accordingly, this clarification would also pertain to non-power reactors. Finally, proposed § 50.36(c)(6) and (e) clarify that for reactors that are not authorized to operate, existing technical specifications will remain effective until removed or modified by license amendment.

III. Clarification of Applicability of 10 CFR Part 50 to Permanently Shutdown Nuclear Power Plants

Once a decision has been made to permanently cease operations of a nuclear power reactor, the proposed rule would require that the licensee must notify the NRC, by certification, that the nuclear power reactor has ceased operations and that fuel has been permanently removed from the reactor vessel. Then, by NRC regulation, the licensee's authority to operate the reactor or to maintain or place fuel in the reactor would be removed, as specified in proposed § 50.82(a). This non-operating status would provide a basis to remove regulatory requirements that are no longer necessary to protect the public health and safety.

Licensees have historically pursued relief from these requirements by means of obtaining license amendments and exemptions. This process has placed significant resource burdens on both licensees and the Commission. After a nuclear power reactor is permanently shutdown and awaiting or undergoing decommissioning, certain regulations, which are based on power operation, are no longer necessary. Other regulations may have limited applicability but require modification to appropriately address the concerns associated with the permanently shut down condition. The Commission proposes to amend a number of the regulations contained in 10 CFR part 50 to clarify their applicability to permanently shutdown nuclear power reactors.

The following paragraphs discuss technical requirements that have been determined to have limited or no applicability and require clarification or modification of their applicability to permanently shutdown nuclear power reactors. Once the technical review is completed, future rulemaking may be forthcoming to address the applicability of additional technical requirements to non-operating reactors.

A. Technical Specifications

The requirements for technical specifications are found in 10 CFR 50.36. The applicability of 10 CFR 50.36 to the operational phase of a nuclear reactor is clearly understood. However, the existing regulation has caused uncertainty as to its applicability to the permanently shutdown and decommissioning phase of a nuclear power reactor. The Commission is proposing to amend 10 CFR 50.36 to clearly indicate that the controls, limits, and requirements established by the technical specifications are a continuing part of the license in the permanently shutdown and decommissioning phase of a nuclear reactor. The Commission recognizes that technical specifications pertinent to the operational phase will need to be revised and amended to reflect plant conditions and safety concerns associated with permanent cessation of operations and permanent removal of the fuel from the reactor vessel. Existing technical specifications will remain effective until removed or modified by license amendment.

B. Technical Specifications for Effluents

Effluent technical specifications are found in 10 CFR 50.36a and Appendix I. The applicability of 10 CFR 50.36a and Appendix I to the operational phase of a nuclear power plant is clearly understood. However, the existing regulation has caused uncertainty as to its applicability to the permanently shutdown and decommissioning phase of a nuclear power plant. The Commission is proposing to amend 10 CFR 50.36a and Appendix I to clearly indicate that the controls, limits, and requirements for controlling radiological effluents are also required during the permanently shut down and decommissioning phase of a nuclear power plant.

C. Environmental Conditions

Requirements associated with environmental conditions are found in 10 CFR 50.36b. The applicability of 10 CFR 50.36b to the operational phase of a nuclear power plant is clearly understood. However, the existing regulation has caused uncertainty as to its applicability to the permanently shutdown and decommissioning phase of a nuclear power plant. The Commission is proposing to amend 10 CFR 50.36b to clearly indicate that conditions to protect the environment remain a part of the license and are required during the permanently shutdown and decommissioning phase of a nuclear power plant.

D. Combustible Gas Control

The combustible gas control requirements are found in 10 CFR 50.44. These requirements were instituted to improve hydrogen management in light water reactor (LWR) facilities and to provide specific design and other requirements to mitigate the consequences of accidents resulting in a degraded core. The requirements focus on the capability for measuring hydrogen concentration, ensuring a mixed atmosphere, and controlling combustible gas mixtures following a loss of coolant accident (LOCA). The concern for hydrogen generation during a LOCA does not exist with the permanently shutdown power reactor. A nuclear power plant that has permanently ceased operations and permanently removed all of its fuel outside of primary containment no longer presents challenges to the reactor pressure vessel and primary containment from accident-generated combustible gases, and such concerns are no longer an issue. Therefore, the Commission is proposing to amend the requirements in 10 CFR 50.44 to indicate its nonapplicability to this situation.

E. Emergency Core Cooling Systems (ECCS) Acceptance Criteria

The acceptance criteria for ECCS for LWRs are found in 10 CFR 50.46 and in Appendix K. These regulations require that the ECCS be designed to provide for long term cooling by limiting post LOCA peak cladding temperature, clad oxidation, and hydrogen generation to specified values. Without fuel in the vessel, ECCS systems are not required

because a design basis LOCA could not occur. Therefore, the Commission is proposing to amend 10 CFR 50.46 and Appendix K to indicate their nonapplicability to a nuclear power reactor facility that has permanently ceased operations and has permanently removed fuel from the reactor vessel.

F. Fire Protection

Section 50.48 does not address fire protection for power reactor facilities that have permanently ceased operations and permanently removed fuel from the reactor vessel. However, the facility still remains radioactively contaminated and may (and most likely will) maintain fuel at the facility. Section 50.48(f) has been added to the proposed amendments to require licensees that have permanently ceased operations to maintain a fire protection program. The proposed rule permits the licensee to make changes to the fire protection program without NRC approval if these changes do not reduce the effectiveness of fire protection for facilities, systems and equipment which could result in a radiological hazard, taking into account the decommissioning plant conditions and activities.

G. Environmental Qualification

The regulations for equipment qualification (EQ) are found in 10 CFR 50.49. The regulations cover that portion of equipment important to safety commonly referred to as ''safety related.'' Safety related structures, systems, and components (SSCs) are those that are relied upon to remain functional during and following design basis events to ensure: (1) The integrity of the reactor coolant pressure boundary, (2) the capability to shut down the reactor and maintain it in a safe condition, and (3) the capability to prevent or mitigate the consequences of accidents that could result in potential offsite exposures comparable to the guidelines of 10 CFR Part 100. Design basis events are defined as conditions of normal operation of the reactor, including anticipated operational occurrences, design basis accidents, external events, and natural phenomena, for which the plant must be designed to ensure the functions (1) through (3).

The EQ rule is clearly limited to electrical equipment that must function during design basis events. In response to comments on the final rule, (48 FR 2729, January 21, 1983), the Commission noted that the EQ rule does not cover the electric equipment located in a mild environment. With permanent cessation of operations and permanent removal of fuel from the reactor vessel, the harsh environment associated with LOCA accidents can no longer occur. Therefore, the Commission is proposing to amend 10 CFR 50.49 to indicate its nonapplicability to a nuclear power reactor facility licensed under these conditions.

H. Containment Leakage Testing

In 10 CFR 50.54, paragraph (o) requires that primary containments for water cooled reactors be subject to the requirements of 10 CFR Part 50, Appendix J. This appendix requires periodic testing to verify the leak-tight integrity of the primary containment and those systems and components that penetrate the containment. The primary containment of an operating reactor is one of several fission product barriers designed to protect the public health and safety in the event of a design basis accident such as a LOCA. Once a nuclear power reactor permanently ceases operations, the fuel is removed from the reactor vessel and placed in the spent fuel pool or an independent spent fuel storage installation (ISFSI). After the fuel has been removed from the reactor vessel, a LOCA can no longer occur. Therefore, leakage testing of the containment is no longer necessary. As a result, the Commission is proposing to amend 10 CFR 50.54(o) to indicate its nonapplicability to a nuclear power reactor facility that has permanently ceased operations and has permanently removed fuel from the reactor vessel.

I. Emergency Actions

In 10 CFR 50.54(x) a licensee is allowed to take reasonable actions that may depart from a license condition or technical specification in an emergency. This is permitted when action is immediately needed to protect the public health and safety and no actions consistent with license conditions and technical specifications that can provide adequate or equivalent protection are immediately apparent.

These regulations serve to ensure that emergency action decisions necessary to protect the public health and safety are made by an individual who has both the requisite knowledge and plant experience. The licensed senior operator at an operating nuclear power reactor has the requisite knowledge and experience to evaluate plant conditions and make these judgments.

The Commission is proposing to amend 10 CFR 50.54(y) to permit a certified fuel handler at nuclear power reactors that have permanently ceased operations and permanently removed fuel from the reactor vessel, subject to the requirements of § 50.82(a) and consistent with the proposed definition of ''Certified Fuel Handler'' specified in § 50.2, to make these evaluations and judgments. A nuclear power reactor that has permanently ceased operations and no longer has fuel in the reactor vessel does not require a licensed individual to monitor core conditions. A certified fuel handler at a permanently shutdown and defueled nuclear power reactor undergoing decommissioning is an individual who has the requisite knowledge and experience to evaluate plant conditions and make these judgements.

J. Fracture Prevention Measures

The regulations in 10 CFR 50.60, 50.61, and Appendices G and H specify the requirements for fracture toughness and material surveillance programs for the reactor coolant pressure boundary of LWRs. The intent of these regulations is to maintain reactor coolant pressure boundary integrity by assuring adequate margins of safety during any condition of normal operation, including anticipated operational occurrences.

After the fuel has been removed from the reactor vessel, accidents and transients that affect the integrity of the reactor coolant pressure boundary can no longer occur. The measures required by these regulations are no longer necessary. Therefore, the Commission is proposing to amend 10 CFR 50.60 and 50.61 to indicate their nonapplicability to a nuclear power reactor facility that has permanently ceased operations and has permanently removed fuel from the reactor vessel.

K. Anticipated Transient Without Scram Requirements

The purpose of 10 CFR 50.62 is to require improvements in the design and operation of LWRs to reduce the likelihood of reactor protection system (RPS) failure following anticipated operational occurrences. This regulation also requires improvements in the capability to mitigate the consequences of an anticipated transient without scram (ATWS) event.

Although the ATWS event can be a significant contributor to operating plant risk, it is not relevant to nuclear power plants that have permanently ceased operations and have permanently removed fuel from the reactor since the RPS is no longer needed. Therefore, the Commission is proposing to amend 10 CFR 50.62 to indicate its nonapplicability to a nuclear power reactor facility that has permanently ceased operations and permanently removed fuel from the reactor vessel.

L. Monitoring the Effectiveness of Maintenance

The applicability of 10 CFR 50.65 to the operational phase of a nuclear power plant is well understood. However, to eliminate any uncertainty as to its applicability to the permanently shutdown and decommissioning phase of a nuclear power plant, the Commission is proposing to amend 10 CFR 50.65 to clearly indicate that the licensee must monitor the performance or condition of all structures, systems, and components associated with the storage, control, and maintenance of spent fuel in a safe condition during the permanently shutdown and decommissioning phase of a nuclear power plant subject to the requirements of § 50.82(a).

M. Maintenance of Records and the Making of Reports

The requirements for licensees to periodically update the Final Safety Analysis Report (FSAR) are contained in 10 CFR 50.71. The regulation requires that ''persons licensed to operate a nuclear power reactor'' update the facility FSAR annually or after each refueling outage with intervals not to exceed 24 months. In order to ensure that applicable sections of facility FSARs continue to be updated, the Commission is proposing to amend this regulation to make it applicable to licensees that have permanently ceased operations, pursuant to § 50.82(a)(1). The Commission is also proposing that the decommissioning plan for non-power reactors be made a part of the facility FSAR or equivalent. These changes will permit licensees to update their FSARs and decommissioning planning documents without prior NRC approval.

IV. Criminal Penalties Provisions

The existing provisions of 10 CFR 50.82 are treated as nonsubstantive and are not subject to criminal enforcement. Under the Commission's proposed amendments to 10 CFR 50.82, licensees would be required to take certain actions which the Commission believes are essential in initiating the decommissioning process; e.g., certifying to permanent cessation of operations and permanent removal of fuel from the reactor vessel, and submitting a PSDAR. Thus, the Commission believes that the amended provisions of 10 CFR 50.82 should be considered as substantive and issued under sections 161b, 161i, or 161o of the Atomic Energy Act of 1954, as amended. Accordingly, the Commission is proposing to amend 10 CFR 50.111(b) to remove the exemption for § 50.82 from the criminal penalty provisions.

Finding of No Significant Environmental Impact Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and therefore an environmental impact statement is not required. The proposed rule would clarify current decommissioning requirements for nuclear power reactors in 10 CFR Part 50, and set forth a more efficient, uniform, and understandable process. The Commission has already analyzed the major environmental impacts associated with decommissioning in the Generic Environmental Impact Statement (GEIS), NUREG–0586, August 1988, published in conjunction with the Commission's final decommissioning rule (53 FR 24018, June 27, 1988). The NRC has sent a copy of the Environmental Assessment and this proposed rule to every State Liaison Officer and requested their comments on the Environmental Assessment. The environmental assessment and finding of no significant impact on which this determination is based are available for inspection and photocopying for a fee at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the environmental assessment and the finding of no significant impact are available from Carl Feldman, U.S. NRC, Washinton DC 20555, (301) 415–6194.

Paperwork Reduction Act Statement

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) This rule has been submitted to the Office of Management and Budget for review and approval of the paperwork requirements.

Because the rule will relax existing information collection requirements, the public burden for this collection of information is expected to be reduced by 12,202 hours per licensee. This reduction includes the time required for reviewing instructions, searching existing data sources, gathering and maintaining the data needed and completing and reviewing the collection of information. Send comments regarding the estimated burden reduction or any other aspect of this collection of information, including suggestions for further reducing this burden, to the Information and Records Management Branch (T–6 F33), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–10202, (3150–0011), Office of Management and Budget, Washington, DC 20503.

Regulatory Analysis

The NRC has prepared a draft regulatory analysis of this proposed regulation. The analysis qualitatively examines the costs and benefits of the alternatives considered by the NRC. The draft regulatory analysis is available for inspection in the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC 20555. Single copies of the analysis may be obtained from Dr. Carl Feldman, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6194.

The Commission requests public comment on the draft regulatory analysis. Comments on the draft analysis may be submitted to the NRC as indicated under the **ADDRESSES** heading.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The proposed rule would impose requirements for timely decommissioning of nuclear power plants. The companies that own these plants do not fall within the scope of the definition of small entities as given in the Regulatory Flexibility Act or the Small Business Size Standards promulgated in regulations issued by the Small Business Administration (13 U.S.C. Part 121).

Backfit Analysis

The Commission is proposing not to apply the backfit rule, 10 CFR 50.109, to these proposed amendments, and therefore, a backfit analysis has not been prepared for this rule. The scope of the backfit provision in 10 CFR 50.109 is limited to construction and operation of reactors. These proposed amendments would only apply to reactors which have permanently ceased operations and, as such, would not constitute backfits under 10 CFR 50.109.

List of Subjects

10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information,

Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalty, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

10 CFR Part 51

Administrative practice and procedure, Environmental impact statement, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

For reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR Parts 2, 50, and 51.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS AND ISSUANCE OF ORDERS

1. The authority citation for part 2 continues to read as follows:

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 114(f), Pub. L. 97–425 96 Stat. 2213, as amended (42 U.S.C. 10134(f)); sec. 102, Pub. L. 91–190, 83 Stat 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200–2.206 also issued under secs. 161b, i, o, 182, 186, 234, 68 Stat. 948–951, 955, 83 Stat. 444, as amended (42 U.S.C. 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Sections 2.600–2.606 also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770, 2.780 also issued under 5 U.S.C. 557. Section 2.764 and Table 1A of Appendix C also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Section 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C 553 and sec. 29, Pub. L. 85–256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Subpart L also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Appendix A also issued under sec. 6, Pub. L. 91–560, 84 Stat. 1473 (42 U.S.C. 2135). Appendix B also issued under Sec. 10, Pub. L. 99–240, 99 Stat. 1842 (42 U.S.C. 2021b et. seq.).

2. In § 2.1201, paragraph (a)(3) is added to read as follows:

§ 2.1201 Scope of subpart.

(a) * * *

(3) The amendment of a part 50 license following permanent removal of fuel from the site to an authorized facility for licensees that have previously made declarations related to permanent cessation of operations and permanent removal of fuel from the reactor in accordance with § 50.82(a)(1). Subpart L hearings for the license termination plan amendment, if conducted, must be completed prior to license termination.

* * * * *

3. In § 2.1203 paragraph (e) is revised to read as follows:

§ 2.1203 Docket; filing; service.

* * * * *

(e) A request for a hearing or petition for leave to intervene must be served in accordance with § 2.712 and § 2.1205 (f) and (k). All other documents issued by the presiding officer or the Commission or offered for filing are served in accordance with § 2.712.

4. In § 2.1205, paragraphs (c) through (n) are redesignated as paragraphs (d) through (o), a new paragraph (c) is added, and newly designated paragraphs (d) introductory text, (d)(1), (d)(2) introductory text, (e)(2), (e)(4), (h) introductory text, (i), (j) introductory text, (k) introductory text, (k)(3), (l)(1) introductory text, and (l)(2) are revised to read as follows:

§ 2.1205 Request for a hearing; petition for leave to intervene.

* * * * *

(c) For amendments of part 50 licenses under § 2.1201(a)(3), a notice of receipt of the application, with reference to the opportunity for a hearing under the procedures set forth in this subpart, must be published in the **Federal Register** at least 30 days prior to issuance of the requested amendment by the Commission.

(d) A person, other than an applicant, shall file a request for a hearing within—

(1) Thirty (30) days of the agency's publication in the **Federal Register** of a notice, which must include a reference to the opportunity for a hearing under the procedures set forth in this subpart, referring to either the receipt of an application, or the granting of an application, in whole or in part, requesting a licensing action. With respect to an amendment described in § 2.1201(a)(3), the Commission, prior to issuance of the requested amendment, will follow the procedures in § 50.91 and § 50.92(c) to the extent necessary to make a determination on whether the amendment involves a significant hazards consideration. If the Commission finds there are significant hazards considerations involved in the requested amendment, the amendment will not be issued until any hearings under this paragraph are completed.

(2) If a **Federal Register** notice is not published in accordance with paragraph (d)(1), the earliest of—

* * * * *

(e) * * *

(2) How the interests may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in paragraph (h) of this section;

* * * * *

(4) The circumstances establishing the request for a hearing is timely in accordance with paragraph (d) of this section.

* * * * *

(h) In ruling on a request for a hearing filed under paragraph (d) of this section, the presiding officer shall determine that the specified areas of concern are germane to the subject matter of the proceeding and that the petition is timely. The presiding officer also shall determine that the requestor meets the judicial standards for standing and shall consider, among other factors—

* * * * *

(i) If a hearing request filed under paragraph (c) of this section is granted, the applicant and the NRC staff shall be parties to the proceeding. If a hearing request filed under paragraph (d) of this section is granted, the requestor shall be a party to the proceeding along with the applicant and the NRC staff, if the staff chooses or is ordered to participate as a party in accordance with § 2.1213.

(j) If a request for hearing is granted and a notice of the kind described in paragraph (d)(1) of this section previously has not been published in the **Federal Register**, a notice of hearing must be published in the **Federal Register** stating—

* * * * *

(k) Any petition for leave to intervene must be filed within thirty (30) days of the date of publication of the notice of

hearing. The petition must set forth the information required under paragraph (e) of this section.

* * * * *

(3) Thereafter, the petition for leave to intervene must be ruled upon by the presiding officer, taking into account the matters set forth in paragraph (h) of this section.

* * * * *

(l) (1) A request for a hearing or a petition for leave to intervene found by the presiding officer to be untimely under paragraph (d) or (k) of this section will be entertained only upon determination by the Commission or the presiding officer that the requestor or petitioner has established that—

* * * * *

(2) If the request for a hearing on the petition for leave to intervene is found to be untimely and the requestor or petitioner fails to establish that it otherwise should be entertained on the paragraph (l)(1) of this section, the request or petition will be treated as a petition under § 2.206 and referred for appropriate disposition.

* * * * *

5. In § 2.1211, paragraph (b) is revised to read as follows:

§ 2.1211 Participation by a person not a party.

* * * * *

(b) Within thirty days of an order granting a request for a hearing made under § 2.1205 (c) and (d) or, in instances when it is published, within thirty days of notice of hearing issued under § 2.1205(j), the representative of the interested State, county, municipality, or an agency thereof, may request an opportunity to participate in a proceeding under this subpart. The request for an opportunity to participate must state with reasonable specificity the requestor's areas of concern about the licensing activity that is the subject matter of the proceeding. Upon receipt of a request that is filed in accordance with these time limits and that specifies the requestor's areas of concern, the presiding officer shall afford the representative a reasonable opportunity to make written and oral presentations in accordance with §§ 2.1233 and 2.1235, without requiring the representative to take a position with respect to the issues. Participants under this paragraph may notice an appeal of an initial decision in accordance with § 2.1253 with respect to any issue on which they participate.

6. Section 2.1213 is revised to read as follows:

§ 2.1213 Role of the NRC staff.

If a hearing request is filed under § 2.1205(c), the NRC staff shall be a party to the proceeding. If a hearing request is filed under § 2.1205(d), within ten (10) days of the designation of a presiding officer pursuant to § 2.1207 the NRC staff shall notify the presiding officer whether or not the staff desires to participate as a party to the adjudication. In addition, upon a determination by the presiding officer that the resolution of any issue in the proceeding would be aided materially by the staff's participation in the proceeding as a party, the presiding officer may order or permit the NRC staff to participate as a party with respect to that particular issue.

7. In § 2.1233, paragraph (c) is revised to read as follows:

§ 2.1233 Written presentations; written questions.

* * * * *

(c) In a hearing initiated under § 2.1205(d), the initial written presentation of a party that requested a hearing or petitioned for leave to intervene must describe in detail any deficiency or omission in the license application, with references to any particular section or portion of the application considered deficient, give a detailed statement of reasons why any particular sections or portion is deficient or why an omission is material, and describe in detail what relief is sought with respect to each deficiency or omission.

* * * * *

8. Section 2.1263, is revised to read as follows:

§ 2.1263 Stays of NRC staff licensing actions or of decisions of a presiding officer or the Commission pending hearing or review.

Applications for a stay of any decision or action of the Commission, a presiding officer, or any action by the NRC staff in issuing a license in accordance with § 2.1205(m) are governed by § 2.788, except that any request for a stay of staff licensing action pending completion of an adjudication under this subpart must be filed at the time a request for a hearing or petition to intervene is filed or within ten (10) days of the staff's action, whichever is later. A request for a stay of a staff licensing action must be filed with the adjudicatory decision maker before which the licensing proceeding is pending.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

9. The authority citation for part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 2902, 106 Stat. 3123, (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 936, 955, as amended (42 U.S.C. 2131, 2235); sec. 102 Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

10. In § 50.2, the terms ''Certified fuel handler,'' ''Major decommissioning activity,'' ''Major radioactive components,'' ''Permanent cessation of operations,'' and ''Permanent fuel removal'' are added to read as follows:

§ 50.2 Definitions.

* * * * *

Certified fuel handler means, for a nuclear power reactor, a non-licensed operator who has qualified in accordance with a fuel handler training program approved by the Commission.

* * * * *

Major decommissioning activity means, for a nuclear power reactor, any activity that results in permanent removal of major radioactive components, permanently modifies the structure of the containment, or results in dismantling components for shipment containing greater than class C waste in accordance with § 61.55 of this chapter.

Major radioactive components means, for a nuclear power reactor, the reactor vessel and internals, steam generators, pressurizers, large bore reactor coolant system piping, and other large components that are radioactive.

* * * * *

Permanent cessation of operation(s) means, for a nuclear power reactor, a certification by a licensee to the NRC that it has permanently ceased or will permanently cease reactor operation(s), or a final legally effective order to permanently cease operation(s) has come into effect.

Permanent fuel removal means, for a nuclear power reactor, a certification by the licensee to the NRC that it has permanently removed all fuel assemblies from the reactor vessel.

* * * * *

11. In § 50.4, paragraphs (b)(8) and (b)(9) are added to read as follows:

§ 50.4 Written communications.

* * * * *

(b) * * *

(8) *Certification of permanent cessation of operations.* The licensee's certification of permanent cessation of operations, pursuant to § 50.82(a)(1), must state the date on which operations have ceased or will cease, and the signed and notarized original must be submitted to: The Nuclear Regulatory Commission, Document Control Desk, Washington, DC 20555.

(9) *Certification of Permanent Fuel Removal.* The licensee's certification of permanent fuel removal, pursuant to § 50.82(a)(1), must state the date on which the fuel was removed from the reactor vessel and the disposition of the fuel, and the signed and notarized original must be submitted to: The Nuclear Regulatory Commission, Document Control Desk, Washington, DC 20555.

* * * * *

12. In § 50.36, paragraphs (c)(6) and (c)(7) are redesignated as (c)(7) and (c)(8) and new paragraphs (c)(6) and (e) are added to read as follows:

* * * * *

§ 50.36 Technical specifications.

* * * * *

(c) * * *

(6) *Decommissioning.* This paragraph applies only to nuclear power reactors that have submitted the certifications required by § 50.82(a)(1) and to non-power reactors which are not authorized to operate. Technical specifications involving safety limits, limiting safety system settings, and limiting control system settings; limiting conditions for operation; surveillance requirements; design features; and administrative controls will be developed on a case-by-case basis.

* * * * *

(e) The provisions of this section apply to each nuclear reactor licensee whose authority to operate the reactor has been removed by license amendment, order, or regulation.

13. Section 50.36a is revised to read as follows:

§ 50.36a Technical specifications on effluents from nuclear power reactors.

(a) In order to keep releases of radioactive materials to unrestricted areas during normal conditions, including expected occurrences, as low as reasonably achievable, each licensee of a nuclear power reactor will include technical specifications that, in addition to requiring compliance with applicable provisions of § 20.1301 of this chapter, require that:

(1) Operating procedures developed pursuant to § 50.34a(c) for the control of effluents be established and followed and that equipment installed in the radioactive waste system, pursuant to § 50.34(a), be maintained and used. The licensee shall retain the operating procedures in effect as a record until the Commission terminates the license and shall retain each superseded revision of the procedures for three years from the date it was superseded.

(2) Each licensee shall submit a report to the Commission annually that specifies the quantity of each of the principal radionuclides released to unrestricted areas in liquid and in gaseous effluents during the previous 12 months, including any other information as may be required by the Commission to estimate maximum potential annual radiation doses to the public resulting from effluent releases. The report must be submitted as specified in § 50.4, and the time between submission of the reports must be no longer than 12 months. If quantities of radioactive materials released during the reporting period are significantly above design objectives, the report must cover this specifically. On the basis of these reports and any additional information the Commission may obtain from the licensee or others, the Commission may require the licensee to take action as the Commission deems appropriate.

(b) In establishing and implementing the operating procedures described in paragraph (a) of this section, the licensee shall be guided by the following considerations: Experience with the design, construction, and operation of nuclear power reactors indicates that compliance with the technical specifications described in this section will keep average annual releases of radioactive material in effluents and their resultant committed effective dose equivalents at small percentages of the dose limits specified in § 20.1301 and in the license. At the same time, the licensee is permitted the flexibility of operation, compatible with considerations of health and safety, to assure that the public is provided a dependable source of power even under unusual conditions which may temporarily result in releases higher than such small percentages, but still within the limits specified in § 20.1301 of this chapter and in the license. It is expected that in using this flexibility under unusual conditions, the licensee will exert its best efforts to keep levels of radioactive material in effluents as low as is reasonably achievable. The guides set out in Appendix I to this part provide numerical guidance on limiting conditions for operation for light-water cooled nuclear power reactors to meet the requirement that radioactive materials in effluents released to unrestricted areas be kept as low as is reasonably achievable.

14. Section 50.36b is revised to read as follows:

§ 50.36b Environmental conditions.

Each license authorizing operation of a production or utilization facility, and each licensee for a reactor facility for which the certification of permanent cessation of operations required under § 50.82(a)(1) has been submitted, which is of a type described in § 50.21(b)(2) or (3) or § 50.22 or is a testing facility may include conditions to protect the environment to be set out in an attachment to the license which is incorporated in and made a part of the license. These conditions will be derived from information contained in the environmental report and the supplement to the environmental report submitted pursuant to §§ 51.50 and 51.53 of this chapter as analyzed and evaluated in the NRC record of decision, and will identify the obligations of the licensee in the environmental area, including, as appropriate, requirements for reporting and keeping records of environmental data, and any conditions and monitoring requirement for the protection of the nonaquatic environment.

15. In § 50.44, the introductory text of paragraph (a) is revised to read as follows:

§ 50.44 Standards for combustible gas control system in light-water-cooled power reactors.

(a) Each boiling or pressurized light-water nuclear power reactor fueled with oxide pellets within cylindrical zircaloy or ZIRLO cladding, other than a reactor facility for which the certifications required under § 50.82(a)(1) have been submitted, must, as provided in paragraphs (b) through (d) of this section, include means for control of hydrogen gas that may be generated,

following a postulated loss-of-coolant accident (LOCA) by—-

* * * * *

16. In § 50.46, paragraph (a)(1)(i) is revised to read as follows:

§ 50.46 Acceptance criteria for emergency core cooling systems for light water nuclear power reactors.

(a)(1)(i) Each boiling or pressurized light-water nuclear power reactor fueled with uranium oxide pellets within cylindrical zircaloy or ZIRLO cladding, other than a reactor facility for which the certifications required under § 50.82(a)(1) have been submitted, must be provided with an emergency core cooling system (ECCS) that must be designed so that its calculated cooling performance following postulated loss-of-coolant accidents conforms to the criteria set forth in paragraph (b) of this section. ECCS cooling performance must be calculated in accordance with an acceptable evaluation model and must be calculated for a number of postulated loss-of-coolant accidents of different sizes, locations, and other properties sufficient to provide assurance that the most severe postulated loss-of-coolant accidents are calculated. Except as provided in paragraph (a)(1)(ii) of this section, the evaluation model must include sufficient supporting justification to show that the analytical technique realistically describes the behavior of the reactor system during a loss-of-coolant accident. Comparisons to applicable experimental data must be made and uncertainties in the analysis method and inputs must be identified and assessed so that the uncertainty in the calculated results can be estimated. This uncertainty must be accounted for, so that, when the calculated ECCS cooling performance is compared to the criteria set forth in paragraph (b) of this section, there is a high level of probability that the criteria would not be exceeded. Appendix K to this part, Part II Required Documentation, sets forth the documentation requirements for each evaluation model.

* * * * *

17. In § 50.48, paragraph (f) is added to read as follows:

§ 50.48 Fire protection.

* * * * *

(f) Licensees that have submitted the certifications required under § 50.82(a)(1) shall maintain a fire protection program to address the potential for fires which could cause the release or spread of radioactive materials (i.e., which could result in a radiological hazard).

(1) The objectives of the fire protection program are to:

(i) Reasonably prevent such fires from occurring;

(ii) Rapidly detect, control, and extinguish those fires which do occur and which could result in a radiological hazard; and

(iii) Ensure that the risk of fire-induced radiological hazards to the public, environment and plant personnel is minimized.

(2) The fire protection program must be assessed by the licensee on a regular basis and revised as appropriate throughout the various stages of facility decommissioning.

(3) The licensee may make changes to the fire protection program without NRC approval if these changes do not reduce the effectiveness of fire protection for facilities, systems and equipment which could result in a radiological hazard, taking into account the decommissioning plant conditions and activities.

18. In § 50.49, paragraph (a) is revised to read as follows:

§ 50.49 Environmental qualification of electric equipment important to safety for nuclear power plants.

(a) Each holder of or an applicant for a license for a nuclear power plant, other than a reactor facility for which the certifications required under § 50.82(a)(1) have been submitted, shall establish a program for qualifying the electric equipment defined in paragraph (b) of this section.

* * * * *

19. In § 50.51, the section heading is revised, the existing paragraph is designated paragraph (a), and paragraph (b) is added to read as follows:

* * * * *

§ 50.51 Continuation of license.

* * * * *

(b) Each license will continue in effect beyond the expiration date, if necessary, with respect to possession of the production or utilization facility, until the Commission notifies the licensee in writing that the license is terminated. During any period of continued effectiveness of a license beyond the license's stated expiration date, except for a license which is in timely renewal status under § 2.109 of this chapter, the licensee is prohibited from operating the production or utilization facility and shall—

(1) Take actions necessary to decommission and decontaminate the facility and continue to maintain the facility, including the storage, control and maintenance of the spent fuel, in a safe condition, and

(2) Conduct activities in accordance with all other restrictions applicable to the facility in accordance with the NRC regulations and the provisions of the specific part 50 license for the facility.

* * * * *

20. In § 50.54, paragraphs (o) and (y) are revised to read as follows:

§ 50.54 Conditions of licenses.

* * * * *

(o) Primary reactor containments for water cooled power reactors, other than reactor facilities for which the certifications required under § 50.82(a)(1) have been submitted, shall be subject to the requirements set forth in Appendix J to this part.

* * * * *

(y) Licensee action permitted by paragraph (x) of this section shall be approved, as a minimum, by a licensed senior operator, or, at a nuclear power reactor for which the certifications required under § 50.82(a)(1) have been submitted, by either a licensed senior operator or a certified fuel handler, prior to taking the action.

* * * * *

21. In § 50.59, paragraphs (d), (e), and (f) are added to read as follows:

§ 50.59 Changes, tests and experiments.

* * * * *

(d) All the provisions of this section shall apply to each nuclear power reactor licensee that has submitted the certification of permanent cessation of operations required under § 50.82(a)(1).

(e) (1) A nuclear power reactor licensee that has submitted the certification of permanent cessation of operations required under § 50.82(a)(1) may conduct activities with regard to the facility, subject to the limitations described in paragraph (a) of this section, provided the changes would not:

(i) Foreclose the release of the site for possible unrestricted use,

(ii) Significantly increase decommissioning costs,

(iii) Cause any significant environmental impact not previously reviewed, or

(iv) Violate the terms of the licensee's existing license.

(2) For changes not meeting any of the criteria in this paragraph or paragraph (a) of this section, the licensee shall submit an application for amendment pursuant to § 50.90.

(f) The provisions of paragraphs (a) through (c) of this section apply to each non-power reactor licensee whose license no longer authorizes operation of the reactor.

22. In § 50.60, paragraph (a) is revised to read as follows:

§ 50.60 Acceptance criteria for fracture prevention measures for light-water nuclear power reactors for normal operation.

(a) Except as provided in paragraph (b) of this section, all light water nuclear power reactors, other than reactor facilities for which the certifications required under § 50.82(a)(1) have been submitted, must meet the fracture toughness and material surveillance program requirements for the reactor coolant pressure boundary set forth in Appendices G and H to this part.

* * * * *

23. In § 50.61, paragraph (b)(1) is revised to read as follows:

§ 50.61 Fracture toughness requirements for protection against pressurized thermal shock events.

* * * * *

(b) *Requirements.* (1) For each pressurized water nuclear power reactor for which an operating license has been issued, other than a reactor facility for which the certifications required under § 50.82(a)(1) have been submitted, the licensee shall submit projected values of RT_{PTS} for reactor vessel beltline materials by giving values for the time of submittal, the expiration date of the operating license, the projected expiration date if a change in the operating license has been requested, and the projected expiration date of a renewal term if a request for license renewal has been submitted. The assessment must use the calculative procedures given in paragraph (b)(2) of this section. The assessment must specify the bases for the projection, including the assumptions regarding core loading patterns. The submittal must list the copper and nickel contents, and the fluency values used in the calculation for each beltline material. If these quantities differ from those submitted in response to the original PTS rule and accepted by the NRC, justification must be provided. If the value of RT_{PTS} for any material in the beltline is projected to exceed the PTS screening criteria before the expiration date of the operating license or the proposed expiration date if a change in the license has been requested, or the end of a renewal term if a request for license renewal has been submitted, this assessment must have been submitted by December 16, 1991. Otherwise, this assessment must be submitted with the next update of the pressure-temperature limits, or the next reactor vessel material surveillance report, or 5 years from [the effective date of the final rule], whichever comes first. These submittals must be updated whenever there is a significant change in projected values of RT_{PTS}, or upon a request for a change in the expiration date for operation of the facility.

* * * * *

24. In § 50.62, paragraph (a) is revised to read as follows:

§ 50.62 Requirements for reduction of risk from anticipated transients without scram (ATWS) events for light-water-cooled nuclear power plants.

(a) *Applicability.* The requirements of this section apply to all commercial light-water-cooled nuclear power plants, other than reactor facilities for which the certifications required under § 50.82(a)(1) have been submitted.

* * * * *

25. In § 50.65, paragraph (a)(1) is revised to read as follows:

§ 50.65 Requirements for monitoring the effectiveness of maintenance at nuclear power plants.

(a)(1) Each holder of a license to operate a nuclear power plant under §§ 50.21(b) or 50.22 shall monitor the performance or condition of structures, systems, or components, against licensee-established goals, in a manner sufficient to provide reasonable assurance that such structures, systems, and components, as defined in paragraph (b) of this section, are capable of fulfilling their intended functions. Such goals shall be established commensurate with safety and, where practical, take into account industry-wide operating experience. When the performance or condition of a structure, system, or component does not meet established goals, appropriate corrective action shall be taken. For a nuclear power plant for which the licensee has submitted the certifications specified in § 50.82(a)(1), this section shall apply to the extent that the licensee shall monitor the performance or condition of all structures, systems, or components associated with the storage, control, and maintenance of spent fuel in a safe condition, in a manner sufficient to provide reasonable assurance that such structures, systems, and components are capable of fulfilling their intended functions.

* * * * *

26. In § 50.71, paragraph (f) is added to read as follows:

§ 50.71 Maintenance of records, making of reports.

* * * * *

(f) The provisions of this section shall apply to nuclear power reactor licensees that have submitted the certification of permanent cessation of operations required under § 50.82(a)(1). The applicable provisions of this section shall also apply to non-power reactor licensees that are no longer authorized to operate.

27. In § 50.75, paragraph (f) is revised to read as follows:

§ 50.75 Reporting and recordkeeping for decommissioning planning.

* * * * *

(f) (1) Each power reactor licensee shall at or about 5 years prior to the projected end of operations submit a preliminary decommissioning cost estimate which includes an up-to-date assessment of the major factors that could affect the cost to decommission.

(2) Each non-power reactor licensee shall at or about 2 years prior to the projected end of operations submit a preliminary decommissioning plan containing a cost estimate for decommissioning and an up-to-date assessment of the major factors that could affect planning for decommissioning. Factors to be considered in submitting this information include—

(i) The decommissioning alternative anticipated to be used. The requirements of § 50.82(b)(4)(i) must be considered at this time;

(ii) Major technical actions necessary to carry out decommissioning safely;

(iii) The current situation with regard to disposal of high-level and low-level radioactive waste;

(iv) Residual radioactivity criteria;

(v) Other site specific factors which could affect decommissioning planning and cost.

(3) If necessary, the cost estimate shall, for power and non-power reactors, also include plans for adjusting levels of funds assured for decommissioning to demonstrate that a reasonable level of assurance will be provided that funds will be available when needed to cover the cost of decommissioning.

* * * * *

28. Section 50.82 is revised to read as follows:

§ 50.82 Termination of license.

The following provisions apply to licensees who do not have an NRC approved decommissioning plan on the effective date of the final rule and may be used, at the licensee's option, by licensees who possess an NRC approved decommissioning plan on the effective date of the final rule.

(a) For power reactor licensees—

(1)(i) When a licensee has determined to permanently cease operations the licensee shall, within 30 days, submit a written certification to the NRC, consistent with the requirements of § 50.4(b)(8) and;

(ii) Once fuel has been permanently removed from the reactor vessel, submit

a written certification to the NRC, consistent with the requirements of § 50.4(b)(9).

(2) Upon docketing of the certifications for permanent cessation of operations and permanent removal of fuel from the reactor vessel, or when a final legally effective order to permanently cease operations has come into effect, the part 50 license no longer authorizes operation of the reactor or emplacement of fuel into the reactor vessel.

(3) Decommissioning will be completed within 60 years of permanent cessation of operations. Completion of decommissioning beyond 60 years will be approved by the Commission only when necessary to protect public health and safety. Factors that will be considered in evaluating an alternative which provides for completion of decommissioning beyond 60 years of permanent cessation of operations include unavailability of waste disposal capacity and other site-specific factors affecting the licensee's capability to carry out decommissioning, including presence of other nuclear facilities at the site.

(4)(i) Prior to or within two years following permanent cessation of operations, the licensee shall submit a post-shutdown decommissioning activities report (PSDAR) which shall include a description of the planned decommissioning activities along with a schedule for their accomplishment, an estimate of expected costs, and a discussion as to whether the environmental impacts associated with site-specific decommissioning activities will be bounded by appropriate previously issued environmental impact statements.

(ii) The NRC shall notice receipt of the PSDAR and make the PSDAR available for public comment. The NRC shall also schedule a public meeting in the vicinity of the licensee's facility upon receipt of the PSDAR. The NRC shall publish a notice in the **Federal Register** and in a forum, such as local newspapers, which is readily accessible to individuals in the vicinity of the site, announcing the date, time and location of the meeting, along with a brief description of the purpose of the meeting.

(5) Licensees may not perform any major decommissioning activities, as defined in § 50.2, until 90 days after the NRC has received the licensee's PSDAR submittal and until certifications of permanent cessation of operations and permanent removal of fuel from the reactor vessel, as required under § 50.82(a)(1), have been submitted.

(6) In taking actions permitted under § 50.59 following submittal of the PSDAR, the licensee shall notify the NRC, in writing, before performing any decommissioning activity inconsistent with, or making any significant schedule change from, those actions and schedules described in the PSDAR.

(7)(i) Decommissioning trust funds may be used by licensees provided:

(A) The withdrawals are for expenses for legitimate decommissioning activities consistent with the definition of decommissioning in § 50.2;

(B) The expenditure would not reduce the value of the decommissioning trust below an amount necessary to place and maintain the reactor in a safe storage condition if unforeseen conditions or expenses arise and;

(C) The withdrawals would not inhibit the ability of the licensee to complete funding of any shortfalls in the decommissioning trust needed to ensure the availability of funds to ultimately release the site and terminate the license.

(ii) Initially, 3 percent of the generic amount specified in § 50.75 may be used for decommissioning planning. For licensees that have submitted the certifications required under § 50.82(a)(1) and commencing 90 days after the NRC has received the PSDAR, an additional 20 percent may be used. A site-specific decommissioning cost estimate must be submitted to the NRC prior to the licensee being permitted to use any funding in excess of these amounts.

(iii) Within 2 years following permanent cessation of operations, if not already submitted, the licensee shall submit a site-specific decommissioning cost estimate.

(iv) For decommissioning activities that delay completion of decommissioning by including a period of storage or surveillance, the licensee shall provide a means of adjusting cost estimates and associated funding levels over the storage or surveillance period.

(8) For licensees that have submitted a certification in accordance with § 50.82(a)(1), the application for termination of license must be accompanied or preceded by a license termination plan to be submitted for NRC approval.

(i) The license termination plan must be a supplement to the FSAR or equivalent and must be submitted at least 2 years prior to the termination of license date.

(ii) The license termination plan must include—

(A) A site characterization;

(B) A description of remaining dismantlement activities;

(C) Plans for site remediation;

(D) Detailed plans for the final radiation survey;

(E) A description of the end use of the site, if restricted;

(F) An updated site-specific analysis of remaining decommissioning costs; and

(G) A supplement to the environmental report, pursuant to § 51.53, describing any new information or significant environmental change associated with the licensee's proposed termination activities.

(iii) The NRC shall notice receipt of the license termination plan and make the license termination plan available for public comment. The NRC shall also schedule a public meeting in the vicinity of the licensee's facility upon receipt of the license termination plan. The NRC shall publish a notice in the **Federal Register** and in a forum, such as local newspapers, which is readily accessible to individuals in the vicinity of the site, announcing the date, time and location of the meeting, along with a brief description of the purpose of the meeting.

(9) If the license termination plan demonstrates that the remainder of decommissioning activities will be performed in accordance with the regulations in this chapter and will not be inimical to the common defense and security or to the health and safety of the public, and after notice to interested persons, the Commission will approve the plan, by amendment, subject to such conditions and limitations as it deems appropriate and necessary and authorize implementation of the license termination plan.

(10) The Commission will terminate the license if it determines that—

(i) The remaining dismantlement has been performed in accordance with the approved license termination plan, and

(ii) The terminal radiation survey and associated documentation demonstrates that the facility and site are suitable for release.

(b) For non-power reactor licensees—

(1) A licensee that permanently ceases operations must make application for license termination within 2 years following permanent cessation of operations, and in no case later than 1 year prior to expiration of the operating license. Each application for termination of a license must be accompanied or preceded by a proposed decommissioning plan. The contents of the decommissioning plan are specified in paragraph (b)(4) of this section.

(2) For decommissioning plans in which the major dismantlement activities are delayed by first placing the facility in storage, planning for these

delayed activities may be less detailed. Updated detailed plans must be submitted and approved prior to the start of these activities.

(3) For decommissioning plans that delay completion of decommissioning by including a period of storage or surveillance, the licensee shall provide that—

(i) Funds needed to complete decommissioning be placed into an account segregated from the licensee's assets and outside the licensee's administrative control during the storage or surveillance period, or a surety method or fund statement of intent be maintained in accordance with the criteria of § 50.75(e), and

(ii) Means be included for adjusting cost estimates and associated funding levels over the storage or surveillance period.

(4) The proposed decommissioning plan must include—

(i) The choice of the alternative for decommissioning with a description of activities involved. An alternative is acceptable if it provides for completion of decommissioning without significant delay. Consideration will be given to an alternative which provides for delayed completion of decommissioning only when necessary to protect the public health and safety. Factors to be considered in evaluating an alternative which provides for delayed completion of decommissioning include unavailability of waste disposal capacity and other site specific factors affecting the licensee's capability to carry out decommissioning, including presence of other nuclear facilities at the site.

(ii) A description of the controls and limits on procedures and equipment to protect occupational and public health and safety;

(iii) A description of the planned final radiation survey;

(iv) An updated cost estimate for the chosen alternative for decommissioning, comparison of that estimate with present funds set aside for decommissioning, and plan for assuring the availability of adequate funds for completion of decommissioning; and

(v) A description of technical specifications, quality assurance provisions and physical security plan provisions in place during decommissioning.

(5) If the decommissioning plan demonstrates that the decommissioning will be performed in accordance with the regulations in this chapter and will not be inimical to the common defense and security or to the health and safety of the public, and after notice to interested persons, the Commission will approve, by amendment, the plan subject to such conditions and limitations as it deems appropriate and necessary. The approved decommissioning plan will be a supplement to the Safety Analysis report or equivalent.

(6) The Commission will terminate the license if it determines that—

(i) The decommissioning has been performed in accordance with the approved decommissioning plan, and

(ii) The terminal radiation survey and associated documentation demonstrates that the facility and site are suitable for release.

(c) For a facility that has permanently ceased operation before the expiration of its license, the collection period for any shortfall of funds will be determined, upon application by the licensee, on a case-by-case basis taking into account the specific financial situation of each licensee.

29. In § 50.91, the introductory text is revised to read as follows:

§ 50.91 Notice for public comment; State consultation.

The Commission will use the following procedures for an application requesting an amendment to an operating license for a facility licensed under § 50.21(b) or § 50.22 or for a testing facility, except for amendments subject to hearings governed by §§ 2.1201 through 2.1263 of this chapter. For amendments subject to §§ 2.1201 through 2.1263 of this chapter, the following procedures will apply only to the extent specifically referenced in § 2.1205 (c) and (d) of this chapter:

* * * * *

30. In § 50.111, paragraph (b) is revised to read as follows:

§ 50.111 Criminal penalties.

* * * * *

(b) The regulations in part 50 that are not issued under sections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 50.1, 50.2, 50.3, 50.4, 50.8, 50.11, 50.12, 50.13, 50.20, 50.21, 50.22, 50.23, 50.30, 50.31, 50.32, 50.33, 50.34a, 50.35, 50.36b, 50.37, 50.38, 50.39, 50.40, 50.41, 50.42, 50.43, 50.45, 50.50, 50.51, 50.52, 50.53, 50.56, 50.57, 50.58, 50.81, 50.90, 50.91, 50.92, 50.100, 50.101, 50.102, 50.103, 50.109, 50.110, and 50.111.

31. Appendix I of Part 50 is amended by revising Section (I), the introductory text of Section (IV), and Section (IV)(C) to read as follows:

Appendix I—Numerical Guides for Design Objectives and Limiting Conditions for Operation to Meet the Criterion "As Low As Is Reasonably Achievable" for Radioactive Material in Light-Water-Cooled Nuclear Power Reactor Effluents

Section I. *Introduction.* Section 50.34a provides that an application for a permit to construct a nuclear power reactor shall include a description of the preliminary design of equipment to be installed to maintain control over radioactive materials in gaseous and liquid effluents produced during normal conditions, including expected occurrences. In the case of an application filed on or after January 2, 1971, the application must also identify the design objectives, and the means to be employed, for keeping levels of radioactive material in effluents to unrestricted areas as low as practicable.

Section 50.36a contains provisions designed to assure that releases of radioactive material from nuclear power reactors to unrestricted areas during normal conditions, including expected occurrences, are kept as low as practicable.

* * * * *

SEC. IV. *Guides on technical specifications for limiting conditions for operation for light-water-cooled nuclear power reactors licensed under 10 CFR Part 50.* The guides on limiting conditions for operation for light-water-cooled nuclear power reactors set forth below may be used by an applicant for a license to operate a light-water-cooled nuclear power reactor or a licensee who has submitted a certification of permanent cessation of operations under § 50.82(a)(1) as guidance in developing technical specifications under § 50.36a(a) to keep levels of radioactive materials in effluents to unrestricted areas as low as is reasonably achievable.

Section 50.36a(b) provides that licensees shall be guided by certain considerations in establishing and implementing operating procedures specified in technical specifications that take into account the need for operating flexibility and at the same time assure that the licensee will exert his best effort to keep levels of radioactive material in effluents as low as is reasonably achievable. The guidance set forth below provides additional and more specific guidance to licensees in this respect.

Through the use of the guides set forth in this Section it is expected that the annual release of radioactive material in effluents from light-water-cooled nuclear power reactors can generally be maintained within the levels set forth as numerical guides for design objectives in Section II.

At the same time, the licensee is permitted the flexibility of operations, compatible with considerations of health and safety, to assure that the public is provided a dependable source of power even under unusual conditions which may temporarily result in releases higher than numerical guides for design objectives but still within levels that assure that the average population exposure is equivalent to small fractions of doses from natural background radiation. It is expected that in using this operational flexibility under unusual conditions, the licensee will exert his best efforts to keep levels of

radioactive material in effluents within the numerical guides for design objectives.

* * * * *

C. If the data developed in the surveillance and monitoring program described in paragraph B of Section III or from other monitoring programs show that the relationship between the quantities of radioactive material released in liquid and gaseous effluents and the dose to individuals in unrestricted areas is significantly different from that assumed in the calculations used to determine design objectives pursuant to Sections II and III, the Commission may modify the quantities in the technical specifications defining the limiting conditions in a license to operate a light-water-cooled nuclear power reactor or a license whose holder has submitted a certification of permanent cessation of operations under § 50.82(a)(1).

* * * * *

PART 51—ENVIRONMENTAL PROTECTION REGULATIONS FOR DOMESTIC LICENSING AND RELATED REGULATORY FUNCTIONS

32. The authority cite is revised to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953, (42 U.S.C. 2201, 2297f); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842).

Subpart A also issued under National Environmental Policy Act of 1969, secs. 102, 104, 105, 83 Stat. 853–854, as amended (42 U.S.C. 4332, 4334, 4335); and Pub. L. 95–604, Title II, 92 Stat. 3033–3041; and sec. 193, Pub. L. 101–575, 104 Stat. 2835 42 U.S.C. 2243). Sections 51.20, 51.30, 51.60, 51.80. and 51.97 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241, and sec. 148, Pub. L. 100–203, 101 Stat. 1330–223 (42 U.S.C. 10155, 10161, 10168). Section 51.22 also issued under sec. 274, 73 Stat. 688, as amended by 92 Stat. 3036–3038 (42 U.S.C. 2021) and under Nuclear Waste Policy Act of 1982, sec 121, 96 Stat. 2228 (42 U.S.C. 10141). Sections 51.43, 51.67, and 51.109 also under Nuclear Waste Policy Act of 1982, sec 114(f), 96 Stat. 2216, as amended (42 U.S.C. 10134(f)).

33. In § 51.53, paragraph (b) is revised to read as follows:

§ 51.53 Supplement to environmental report.

* * * * *

(b) *Post operating license stage.* Each applicant for a license amendment authorizing decommissioning activities for a production or utilization facility either for unrestricted use or based on continuing use restrictions applicable to the site; and each applicant for a license amendment approving a license termination plan or decommissioning plan under § 50.82 of this chapter either for unrestricted use or based on continuing use restrictions applicable to the site; and each applicant for a license or license amendment to store spent fuel at a nuclear power reactor after expiration of the operating license for the nuclear power shall submit with its application the number of copies, as specified in § 51.55, of a separate document, entitled ''Supplement to Applicant's Environmental Report—Post Operating License Stage,'' which will update ''Applicants Environmental Report—Operating License Stage,'' as appropriate, to reflect any new information or significant environmental change associated with the applicants proposed decommissioning activities or with the applicants proposed activities with respect to the planned storage of spent fuel. Unless otherwise required by the Commission, in accordance with the generic determination in § 51.23(a) and the provisions in § 51.23(b), the applicant shall only address the environmental impact of spent fuel storage for the term of the license applied for. The ''Supplement to Applicant's Environmental Report—Post Operating License Stage'' may incorporate by reference any information contained in ''Applicant's Environmental Report—Construction Permit Stage,'' ''Supplement to Applicant's Environmental Report—Operating License Stage,'' final environmental impact statement, supplement to final environmental statement of records of decision previously prepared in connection with the construction permit of the operating license.

34. In § 51.95, paragraph (b) is revised to read as follows:

§ 51.95 Supplement to final environmental impact statement.

(b) Post operating license stage. In connection with the amendment of an operating license authorizing decommissioning activities at a production or utilization facility covered by § 51.20, either for unrestricted use or based on continuing use restrictions applicable to the site, or with the issuance, amendment or renewal of a license to store spent fuel at a nuclear power reactor after expiration of the operating license for the nuclear power reactor, the NRC staff will prepare a supplemental environmental impact statement for the post operating license stage or an environmental assessment, as appropriate, which will update the prior environmental review. The supplement or assessment may incorporate by reference any information contained in the final environmental impact statement, the supplement to the final environmental impact statement—operating license stage, or in the records of decision prepared in connection with the construction permit or the operating license for that facility. The supplement will include a request for comments as provided in § 51.73. Unless otherwise required by the Commission, in accordance with the generic determination in § 51.23(a) and the provisions of § 51.23(b), a supplemental environmental impact statement for the post operating license stage or an environmental assessment, as appropriate, will address the environmental impacts of spent fuel storage only for the term of the license, license amendment or license renewal applied for.

Dated at Rockville, Maryland, this 13th day of July, 1995.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 95–17718 Filed 7–19–95; 8:45 am]

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DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 430

[Docket No. EE–RM–93–801]

Energy Conservation Program for Consumer Products: Proposed Rulemaking Regarding Energy Conservation Standards for Refrigerators, Refrigerator-Freezers, and Freezers

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Notice of Proposed Rulemaking and Public Hearing.

SUMMARY: The purpose of this notice of proposed rulemaking (NOPR) is to provide interested persons an opportunity to comment on this proposal amending the energy conservation standards for refrigerators, refrigerator-freezers, and freezers, and to invite interested persons to participate in the appliance energy conservation standards rulemaking process.

DATES: Written comments on the proposed rule must be received by the Department by October 3, 1995. The Department requests 10 copies of the written comments and, if possible, a computer disk.

Oral views, data, and arguments may be presented at the public hearing to be held in Washington, DC, on September 12 and 13, 1995. Requests to speak at